

RICHMOND SANITARY DISTRICT

Pretreatment Enforcement Management Plan and Enforcement Response Guide

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i. DEFINITIONS AND ACRONYMS

AF = Administrative Fine (Section III B 6.)

AO = Administrative Order (Section III B 5.)

APPROVAL AUTHORITY = Indiana Department of Environmental Management
(Section II A.)

BOARD OF SANITARY COMMISSIONERS = Board of Sanitary Commissioners of
Richmond, Indiana

CDO = Cease and Desist Order (Section III B 5b.)

CO = Consent Order (Section III B 4.)

CONTROL AUTHORITY = Richmond Sanitary District (Section I.)

DIRECTOR = Director of Richmond Sanitary District

DISTRICT = Richmond Sanitary District

PRETREATMENT COORDINATOR = Pretreatment Coordinator (Section II A.)

ECS = Enforcement Compliance Schedule (Section III B 5a.)

EPA = United States Environmental Protection Agency (Section I.)

ERP = Enforcement Response Plan (Section I.)

ERG = Enforcement Response Guide (Section IV.)

IDEM = Indiana Department of Environmental Management (Section I.)

IU = Industrial User (Section I.)

LINKO = Linko Data Systems Pretreatment Compliance Monitoring software
(Section II F.)

LIT = Litigation (Section III B 7.)

NOV = Notice of Violation (Section III B 3.)

POTWs = Publicly Owned Treatment Works (Section II A.)

QNCR = Quarterly Noncompliance Report (Section II A.)

SC = Show Cause Hearing (Section III B 5c.)

SIUs = Significant Industrial Users (Section II B 2.)

SNC = Significant Noncompliance (Section III B 8.)

SUO = Sewer Use Ordinance. (Section I.)

SV = Site Visit (Section III B 2.)

TRC = Technical Review Criteria (Section III B 9.)

TTO = Total Toxic Organic (Section II F.)

USER = Any source of an indirect discharge. (Section I.)

VTN = Verbal Telephone Notice (Section III B 1.)

I. INTRODUCTION

Under the authority granted by Federal Pretreatment Standard 40 CFR 403.8 (f)(5) and Part III (A)(4) of our NPDES permit, the Control Authority (Richmond Sanitary District) is required to develop and implement an Enforcement Response Plan (ERP) regarding violations of any pretreatment and discharge codes, laws or regulations. An ERP provides protocol for responding to pretreatment violations consistently and systematically. An ERP also notifies Users of how the Control Authority will respond to pretreatment violations. The plan shall outline how the Control Authority will:

1. Investigate instances of noncompliance;
2. Describe the types of escalating enforcement actions the Control Authority will take in response to all anticipated types of user violations;
3. Identify (by title) the official(s) responsible for each type of action; and
4. Adequately reflect the Control Authority's primary responsibility to enforce all applicable pretreatment requirements and standards.

The ERP is a guidance or policy document. It is part of the pretreatment program procedures. Although it coordinates with the sewer use ordinance (SUO), it is not part of the SUO and shall not be made part of the SUO.

This document represents the management and enforcement procedures for the Pretreatment Program of the Richmond Sanitary District (Control Authority). All Users discharging non-domestic wastewater to the Control Authority are subject to the provisions of the ERP. The Control Authority consistently administers and implements all elements of the ERP. The ERP does not preclude the Control Authority from taking any, all, or any combination of action against a noncompliant user. It is to be understood that if an Industrial User's (IU) or User's noncompliance persists after notification by the Control Authority, the Indiana Department of Environmental Management (IDEM) may proceed to enforce directly against the industrial user or user and/or the Control Authority.

The IDEM may also take its own enforcement action when the District has not taken timely action or has failed to impose adequate sanction against the User in violation. Also, the United States Environmental Protection Agency (EPA) retains authority to take its own enforcement action where IDEM or the District is not willing to take timely or appropriate enforcement. With this in mind, action taken by the District is preferable to any alternative action.

This plan includes an Enforcement Response Guide (ERG) which contains a range of enforcement responses available to the Control Authority. The ERG addresses a broad range of pretreatment violations. It is intended to cover all types of violations but if any are omitted it is not intended to limit the enforcement discretion or action of any of the control agencies.

If a facility appears to be acting in good faith to comply with pretreatment regulations, the Control Authority may choose an enforcement response that is not as coercive as one it would choose against a facility not acting in good faith. It must be noted however, that when taking into account a facility's good faith, Congress clearly expressed in the Clean Water Act, that extraordinary efforts are required by the industrial community to comply with the pretreatment requirements. Therefore, the intention of good faith should be considered only if a facility is making every effort to comply with pretreatment requirements.

II. MANAGEMENT PLAN

A. Industrial User Inventory

The Federal Pretreatment Standard, 40 CFR 403.8 (f) (2), requires all Publicly Owned Treatment Works (POTWs) to identify potential IUs that are subject to the requirements of the pretreatment program and to identify the volume and character of pollutants discharged by the IUs. Furthermore, in order to implement an effective Enforcement Response Plan, all Users subject to pretreatment regulations must be identified and controlled.

The District conducts an extensive mailing of Industrial User Survey forms every five years to non-permitted industrial and commercial facilities, and follows up with phone calls and site visits. Beyond this mailing event, the District utilizes a variety of resources and activities to identify new industrial sources. The following list includes a number of resources used for identifying new facilities:

- Telephone Listings (Yellow Pages)
- Previous Survey Results
- Industrial directories
- Site visits
- Contact from potential industries
- Observations by sampling/inspection personnel
- Newspaper articles
- Chamber of Commerce

All new industries subject to pretreatment requirements as set forth below are issued a Wastewater Discharge Permit and added to a master list of regulated facilities. This list is provided to the Approval Authority (IDEM) on a quarterly basis as part of the Quarterly Noncompliance Report (QNCR). Any changes to the list are noted on the QNCR. All permitted facilities are considered Significant Industrial Users under the Control Authority's Pretreatment Program and are subject to all program requirements.

An additional requirement associated with the Industrial User Inventory is maintaining an accurate characterization of the type, volume, and quality of the wastewater discharge from the permitted IUs. This is accomplished by completion of ongoing activities including:

- Scheduled annual inspections at each industry
- Unscheduled inspections and/or site visits conducted at selected industries
- Industry's requirement to report changed discharges
- Observations from field personnel
- Information submitted on Wastewater Discharge Permit Applications
- Review of self-monitoring reports and/or District sampling data
- Water usage reports from Indiana American Water Company

Updated information collected as part of the District's Industrial User Inventory activities is recorded in District files. The majority of the industrial inventory is conducted by the District's Industrial Permits Pretreatment Coordinator or Pretreatment Technician.

B. Industrial Classification

Classification of each Industrial User (IU) is based on information obtained through the Wastewater Discharge Permit Application and preliminary site visit. Each Industry is categorized into one of the following groups:

1. IUs that are subject to federal categorical pretreatment standards.
2. IUs that:
 - a. Discharge an average of twenty-five (25,000) gallons per day or more of process wastewater, (excluding sanitary, noncontact cooling and boiler blowdown wastewaters, or
 - b. Contribute process wastewater that makes up five percent (5%) or more of the POTW's average dry weather hydraulic or organic loading capacity, or
 - c. Have a reasonable potential to adversely affect the District's workers and treatment plant operations, or violate a pretreatment standard or pretreatment program requirement.
3. IUs that have non-significant wastewater streams.
4. NSCIU (Non-significant categorical Industrial User) that although are considered categorical dischargers, do not discharge more than 100 GPD of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the categorical Pretreatment Standard).

This categorical industrial user must also:

- a. Have consistently complied with all applicable Pretreatment Standards;
- b. Annually submit a certification statement (40 CFR 403.12(q); and
- c. Never discharge any untreated concentrated wastewater.

Any IUs falling under groups 1 and 2 are subject to pretreatment requirements and are issued a Wastewater Discharge Permit as part of the District's Pretreatment Program. IUs in group 3 are not subject to pretreatment regulations and are not issued permits. IUs in group 4 are subject to pretreatment requirements, and may be issued a Wastewater Discharge Permit at the discretion of the Director.

C. Permitting

The Pretreatment Coordinator assesses the information supplied in the IU's Wastewater Discharge Permit Application, and uses this information to determine the necessary discharge parameters and monitoring frequency in accordance with federal, state, and local regulations. These discharge limits are the foundation of the Wastewater Discharge Permit which is issued by the District's Board of Sanitary Commissioners.

D. Compliance Monitoring

Compliance monitoring activities are conducted by the Pretreatment Coordinator and the Pretreatment Technician. These activities are necessary to identify and document violations and to verify IU self monitoring reports. Data obtained as a result of District monitoring can be presented as admissible and presumptive evidence in administrative actions and legal proceedings. IU compliance with applicable regulations is determined and evaluated through:

- Self-monitoring reports submitted to the Pretreatment Coordinator as described in each IUs permit
- District industrial monitoring results
- Compliance reports and any other information or reports that convey compliance status which the Pretreatment Coordinator may request
- Inspections or site visits conducted by the District

Self-monitoring data are required by all permitted IUs. The basic forms used are prescribed by the District to ensure all necessary information is submitted. These forms may be tailored to fit specific industries and/or processes. Each report must be signed by an authorized representative of the industry. These data are prima facie evidence of a violation if so identified.

Industrial sampling conducted by the District, and analysis conducted by the District or the District's authorized contract laboratories are a cornerstone of compliance monitoring. Therefore, strict adherence to standard procedures is required. Trained sampling and inspection personnel collect industrial samples and complete chain-of-custody forms that accompany each sample. The chain-of-custody form follows the sample through the analytical process if the analysis is conducted in-house, or until it is signed off by an authorized representative of the District's contract laboratory and replaced by the contract laboratory's chain-of-custody form.

The chain-of-custody ensures a legally binding link between the sample and the analytical data obtained during analysis of the sample. Each person receiving custody of the sample is required to sign the chain-of-custody from the beginning of the sampling event to the end of the sample analysis.

E. Industrial Inspections

Each facility that is permitted under the District's Pretreatment Program must be inspected at least once annually. Inspections are conducted annually to verify compliance and to identify any potential problems or violations. Additional inspections or site visits may occur during a given year to track compliance schedule activities, verify changes in discharges or processes, maintain a regulator presence, or scrutinize facilities with discharges most likely to impact the POTW. Annual inspections are normally conducted by the Pretreatment Coordinator and Pretreatment Technician. Additional inspections may be conducted by the Pretreatment Coordinator, Pretreatment Technician, or the District's Director, depending upon grounds for the inspection.

A standard inspection form is used to ensure all areas are evaluated. The form is signed and dated by the inspector and a facility representative that is present during the inspection. Any noncompliance situations are noted, either on the inspection form or on a separate report, and a follow up is conducted with the industry.

Annual inspections are conducted on a random basis each year. As an industry is inspected, the date is noted in an inspection log to ensure each facility is inspected at least once during each calendar year as dictated by program requirements.

Additional inspections and site visits are conducted as a result of a spill, accidental discharge, or other occurrence that may merit an inspection. At the beginning of the fourth quarter of each calendar year, the current industry list is reviewed to determine if all facilities have been inspected, or are scheduled for an inspection in the current year. Any industries which have not been addressed are scheduled for an inspection at this time.

F. Data Screening and Tracking

IUs are required to submit various reports and information to the Pretreatment Coordinator on a routine basis. It is important that the Pretreatment Coordinator have a reliable procedure to

ensure that IUs submit the information that is requested by the required dates. Reports or information required from IUs on a regular basis are logged into LINKO tracking software. The following list represents the type of items that may be required from an IU.

- Self Monitoring Reports
- Industrial Discharge Permit Application
- Compliance Schedule progress reports
- Follow-up information subsequent to industrial inspections
- Written reports following spills, accidental or slug discharges
- Written response to Notices of Violation

Analytical data to be screened and evaluated is generated through IU self monitoring and District sampling. All data generated by these two activities are reviewed by the Pretreatment Coordinator or Pretreatment Technician.

As analytical data becomes available, the Pretreatment Technician or Pretreatment Coordinator inputs this information into the LINKO database to aid in violation detection and tracking. The due dates and actual receipt dates for all required monitoring reports are also inputted into LINKO. As a violation is detected, an appropriate enforcement action is initiated. The specific responses and time frames are explained in Parts III and IV of this plan.

The Pretreatment Technician or Pretreatment Coordinator screen reports submitted as part of Compliance Schedule activities and tracks the timely submittal of these reports with the aid of the LINKO database. Action is taken if required reports are not received or if milestones are missed.

IU Self Monitoring Reports contain a statement attesting to the accuracy and completeness of the information submitted which must be signed by an authorized representative of the IU. Total Toxic Organic (TTO) certification statements are also included on any categorical Self Monitoring Reports when TTO certification is used as an alternative to TTO monitoring.

G. Identification of Violations

The identification of a violation of pretreatment requirements, regardless of the severity, will initiate the enforcement process. Discovery of a violation will normally occur as a result of reviewing District sampling results or IU self monitoring results, but may occur as a result of any number of activities. The list below represents other sources for identifying violations:

- Spill/accidental discharge reports from IUs
- 24 hour notification of violations by the IU to the District
- Site visits/inspections by District personnel
- Other information provided by IU employees
- Observations of District personnel
- Information provided by the public
- Review of Compliance Schedule requirements
- Review of agreed judgment requirements
- Information provided by other governmental agencies

H. Compliance Decisions and Enforcement

All violations identified by the Pretreatment Coordinator are reviewed, evaluated, and addressed according to the guidelines of the Enforcement Management Plan. When determining an appropriate response, particularly one which includes the imposition of penalties, the specific procedures outlined in the Enforcement Response Guide will be followed. However, additional criteria may be used in determination of the response including:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the POTWs receiving stream
- Effect of the violation on POTW processes and equipment
- Compliance history of the industrial user
- Good faith of the industrial user
- Pollutants of particular importance to the POTW

An IU must also notify the District within 24 hours of becoming aware of any discharge violation, and is required to repeat the sampling and analysis, and to submit the results of the repeat analysis within (30) days of becoming aware of the violation. Failure to provide 24 hour notice or the 30 day resample report will constitute sampling/reporting noncompliance.

When a minor violation occurs, a telephone call to the IU may suffice, otherwise, the majority of enforcement actions begin with the issuance of a Notice of Violation (NOV). The NOV describes the nature of the violation and informs the IU that any additional violations may result in escalated enforcement action.

Once the IU has been notified of a violation or has knowledge of a condition which is a violation, the IU shall be allowed up to thirty (30) calendar days to correct the noncompliance before escalation of the enforcement process occurs unless the violations threaten health, property or environmental quality. This thirty (30) day period applies only to an initial violation. Any violations occurring after this period will be evaluated according to the ERG.

An IU receiving self-monitoring results, or District sampling results, which show a violation shall have thirty (30) days to correct the condition that exists or existed which contributed to the violation. Thereafter, each violation is evaluated for enforcement action. In addition, if a violation occurred during the thirty (30) day correction period, the industry must demonstrate that good faith was exercised to prevent or mitigate further violations during that period.

The terms “isolated” or “infrequent” as used in Part IV of this guide means no more than three (3) violations of the same parameter or circumstance during the past 12-months leading up to the date of the violation under review.

I. District Personnel Responsibility

Inspection personnel may include the Pretreatment Coordinator, Pretreatment Technician, or Director. Industrial sampling may be carried out by inspection personnel and/or laboratory staff. Informal enforcement actions, telephone calls, site visits, and Notices of Violation are managed by the Pretreatment Coordinator. Administrative Fines and Administrative Orders are authorized by the Director upon the recommendation of the Pretreatment Coordinator. The Board of Sanitary Commissioners will authorize legal action, sewer ban and/or other penalties upon the recommendation of the Director and Pretreatment Coordinator.

III. ENFORCEMENT PROCEDURES

A. Purpose

IUs that violate federal, state, or local requirements are subject to the conditions of the District's Enforcement Management Plan (ERP) and Enforcement Response Guide (ERG) as contained herein. The ERG will help ensure equitable treatment of violators by providing a consistent basis for selection of appropriate responses to violations. The ERG shall be followed unless mitigating circumstances can be shown.

The ERG indicates the type of noncompliance, the circumstances which might vary the type of response, and the range of responses for that particular category of noncompliance. The ERG has been developed with the intention of serving the following purposes:

- To recommend enforcement responses that are appropriate in relation to the nature and severity of the violation; and
- To provide a guide to encourage a uniform application of enforcement responses against many types of violations while taking into account specific circumstances and impacts of the violations; and
- To be used as a mechanism to review the appropriateness of the responses.

The ERG groups various types of violations into the following four categories:

- Violations of sampling, monitoring and reporting.
- Violations of compliance schedules.
- Violations of discharge limitations.
- Violations detected through inspection or field monitoring.

B. Types of Enforcement Responses

In order to provide a concise manual in a useable format, acronyms have been used for several of the types of response.

Definition of Acronyms:

- VTN = Verbal Telephone Notice
-
- EN = Email Notice
-
- SV = Site Visit
-
- NOV = Notice of Violation
-
- CO = Consent Order
-
- AO = Administrative Order
-
- ECS = Enforcement Compliance Schedule
-
- CDO = Cease and Desist Order
-
- SC = Show Cause Hearing
-
- AF = Administrative Fine
-
- LIT = Litigation
-

- SNC = Significant Noncompliance
-
- TRC = Technical Review Criteria

1. INFORMAL NOTICE – An informal notice may be either a documented phone call, documented e-mail (written warning), or a meeting notifying the User on minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence or escalation of the incidence will result in escalated enforcement action.
2. VTN - A Verbal Telephone Notice describes a response to a minor type of violation which is conveyed verbally to the IU's contact person and no further follow up on the IU's part is expected. VTN is utilized when there is a very minor infraction, such as a report being received one or two days late.
3. EN – An Email Notice describes a documented response to a minor violation which is conveyed via e-mail to the IU's contact person. It is self-documenting and will be added to an IU's records. Is equivalent to a VTN.
4. SV - A Site Visit is a visit to the IU to discuss and observe the problem. This can be a substitution for VTN or NOV. The SV can also be made in conjunction with a NOV, indicating a reason for the noncompliance and what steps are being taken to eliminate any future violations of this nature. A Site Visit form needs to be filled out when this action is taken.
5. NOV - A Notice of Violation is a written notification to the IU indicating the type of apparent violation and requesting a written response within ten (10) days, indicating a reason for the noncompliance and what steps are being taken to eliminate any future violations of similar nature.
6. CO -A Consent Order is used when a noncompliant industry wishes to enter into a voluntary compliance action. The CO is written by the District using information that is mutually agreed upon by the IU or User and the District, and is signed by both parties. The Consent Order will include specific actions to be taken by the user to correct the noncompliance within a time period also specified in the Order. The CO will normally contain a time frame of about six (6) months to one (1) year if installation of a large amount of equipment is necessary. The CO may include, at the discretion of the Director, interim discharge limits of no more than five times the IU's current discharge limits. A CO shall have the same force and effect as an Administrative Order.
7. AO - An Administrative Order is issued to an IU or User by the Control Authority and contains necessary corrective measures that need to be carried out by an IU or User to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). An AO may contain one or more of the following: administrative fines, enforcement compliance schedules, directives for increased monitoring and/or reporting frequencies, cease and desist orders, and show cause hearings. In addition, it specifies the name of the parties involved, statement of facts, the requirement to ensure compliance and the enforcement associated with any future non-compliance. The AO will normally contain a time frame of about six (6) months to one (1) year.
8. ECS - An Enforcement Compliance Schedule is a formal time and management schedule contained in an AO used when serious or long term violations of discharge limits occur that require the design and installation of new or additional pretreatment equipment. Usually the time frame will be six (6) months to one (1) year. Violations of the ECS can result in the next step, consisting of Administrative Fines.

9. CDO - A Cease and Desist Order is used when the District determines that an IU is violating the Sewer Use Ordinance, Wastewater Discharge Permit, any Order previously issued by the District, or any other pretreatment standard or requirement, and that these violations are likely to continue or reoccur. The Cease and Desist Order will direct the non-compliant IU to:
 - a. immediately stop all violations and comply with all requirements, and
 - b. take immediate action to ensure that the violations do not continue or reoccur, including halting operations and/or terminating the discharge.
10. SC - A Show Cause Hearing is a meeting to show cause why a proposed enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the IU show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the IU. Whether or not the IU appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user. The IU may request a show cause hearing at the Districts convenience.
11. AF - An Administrative Fine is a monetary penalty assessed by the District where deemed appropriate because of the nature and/or intent of the violation. The AF is an escalating response which exists to correct the problem and/or demonstrate the seriousness of the violation to the industry involved. The amount that can be imposed as an AF must be no less than \$50.00 and no greater than \$2,500.00 per violation, with each day and/or parameter being considered a separate violation. The administrative fine may be part of an (AO), or may be instituted as the step above or below an (AO). NOTE: See Part VI for an Administrative Fine Schedule
12. LIT - Litigation is the most severe enforcement action and is utilized when an IU has not cooperated with the District or responded to the other enforcement remedies. Litigation defines several courses of action including civil suits for injunctive relief and/or civil penalties, termination of service, etc. These types of actions would all involve the Courts and the City Attorney and would follow the procedures necessary for due process.
13. SNC- Significant Noncompliance See Part III, C for complete definition

Utilizing the Enforcement Response Guide, the Pretreatment Coordinator will initiate the appropriate response and see that the files have been updated to show the type of action being taken and the response date, if one is so indicated, and the type of action taken. The Pretreatment Coordinator will initiate any field surveying which he/she feels appropriate to substantiate previous data received, or to double check the response of an IU to the action which they have indicated that they have taken.

C. Significant Noncompliance (SNC)

Instances of Significant Noncompliance (SNC) are IU violations which meet one or more of the following criteria:

1. Violations of Wastewater Discharge Limits
 - a. Chronic violations - Sixty-six (66%) or more of all the measurements taken for the same pollutant during a six month period exceed, by any magnitude, a

numeric standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l).

b. Technical Review Criteria (TRC) violations - Thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the numeric standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), multiplied by the applicable TRC listed below.

Conventional Pollutants: Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Fats, Oil, Grease (FOG).

TRC LIMIT - numeric standard or requirement x 1.4

NOTE: Discharge of conventional surcharge pollutants in excess of threshold concentrations will not constitute a violation unless the discharge satisfies a condition in 1.c or 1.d below.

All Other Pollutants except pH:

TRC LIMIT - numeric standard or requirement x 1.2

c. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l), such as daily maximum, long-term average, instantaneous limit, or narrative standard that the District determines has caused, alone or in combination with other discharges, interference (i.e. slug loads) or pass through, including endangering the health of District personnel or the general public.

d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment; or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge.

2. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

3. Failure to provide, within forty-five (45) days after the due date, required reports such as the baseline monitoring report, 90-day Compliance Report, periodic self monitoring reports, and reports on compliance with compliance schedules.

4. Failure to accurately report noncompliance.

5. Any other violation or group of violations, which may include a violation of Best Management Practices (BMPs), that the District determines will adversely affect the operation or implementation of the local pretreatment program.

On a quarterly basis the Pretreatment Coordinator will be responsible for reviewing the compliance file of all IUs for the previous six (6) months to determine if significant noncompliance exists for any IU. The Pretreatment Coordinator shall be responsible for seeing that all IUs in SNC are tabulated on an annual basis, and that the names of all SNC violators are published in the local daily newspaper, as required by EPA.

IV. Enforcement Response Guide

Violations Falling Under More Than One Category - Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

Examples of Violations

Minor Sampling, Monitoring, or Reporting Deficiencies:

- Reports/Correspondence submitted late
- Incomplete reports and/or chain-of-custody
- Transcription error
- Improper sampling or analytical procedure
- Late notification of violation to POTW
- Failure to report any operational changes which affect the discharge flow rate but do not impact the permit

Major Sampling, Monitoring, or Reporting Deficiencies:

- Reports/Correspondence late by more than 30 days
- Sampling point not accessible to the POTW
- Reports not certified
- Failure to report any operational changes which affect the discharge flow rate and impact the permit
- Failure to submit all the information that leads to the determination of a category of an IU
- Failure to use appropriate analytical methods (40 CFR 136)
- Failure to sample for a parameter
- Failure to report slug load discharge, illegal discharges or spills with no damage to POTW
- Unacceptable explanation for violation
- Improper sampling or analytical procedure - repeat offenses
- Any other violation categorized as "Major sampling, monitoring or reporting deficiencies" by the POTW

Critical Sampling, Monitoring, or Reporting Deficiencies:

- Reports greater than thirty (45) days late (SNC)
- Any sampling, monitoring, or reporting procedure deficiency which places IU in SNC
- Failure to respond to a Show Cause or Administrative Order
- Illegal or unauthorized discharge that results in damage to the POTW
- Any violation of sampling, monitoring, or reporting procedures which directly or indirectly contributes to or is responsible for violation of POTW's NPDES Permit.
- Any other violation categorized as critical sampling, monitoring or reporting deficiencies by the POTW

Note: from Section II(H)] The terms "isolated" or "infrequent" as used in the following guide means no more than three (3) violations of the same parameter or circumstance during the past 12-months leading up to the date of the violation under review.

A. Sampling, Monitoring, and Reporting

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>
Failure to sample, monitor, or report.	Isolated or infrequent.	VTN, SV, NOV requiring a report within 10 days.
Failure to sample, monitor, or report.	Frequent violation, or IU does not respond to letters, follow through on verbal or written agreement – SNC.	AO, AF, or LIT.
Failure to notify of effluent limit violation, or slug discharge.	Isolated or infrequent No known effects.	VTN, SV, NOV requiring a report within 10 days. If no response within 10 days, issue NOV or AO.
Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation - SNC.	AO, AF, or LIT.
Failure to notify of effluent limit violation or slug discharge.	Known environmental or POTW damage - SNC.	AF, AO, or LIT.
Minor sampling, monitoring or reporting errors (computational or typographical errors).	Isolated or infrequent.	VTN, SV, NOV. Corrections on next submittal.
Major or gross sampling, monitoring or reporting errors (missing information, late reports, etc.).	Isolated or infrequent.	SV, NOV, or AO. Corrections on next submittal.
Major or gross sampling, monitoring or reporting errors.	Frequent, remains uncorrected, 30 days or more - SNC.	AF, AO, or LIT.

B. Compliance Schedules

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>
Reporting false information.	Any instance - SNC.	AF, LIT, sewer disconnect.
Missed interim date.	Will not cause late final or other interim date.	NOV, SV.
Missed interim date.	Will result in other missed interim dates--with valid cause.	NOV, SV or AO.
Missed interim date.	Will result in other missed interim dates with no valid cause - SNC.	NOV, AO, AF or LIT.
Missed final date.	90 days or more, failure or refusal to comply without valid cause.	AO, or LIT.
Missed final date.	Violations due to worker strikes, acts of God, etc.	Contact IU and require documentation of good or valid cause; SC.
Failure to install monitoring equipment	First Offense	CO, or AO (must begin monitoring using outside contracts if necessary)
Failure to install monitoring equipment.	Continued - SNC.	AF, AO, LIT (must begin monitoring immediately using outside contracts if necessary)

C. Discharge Limitations

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>
Exceeding Final Limits (categorical, local or prohibited).	Infrequent or isolated minor violation.	VTN, NOV, SV, may require increased sampling frequency.
Exceeding Final Limits.	Infrequent or isolated major violations, exceed TRC limits.	VTN, NOV, SV, AF, AO, or LIT if environmental harm results.
Exceeding Final Limits.	Violation(s) which are SNC.	AF, AO or LIT.
Exceeding Interim Limits	No known damages.	VTN, SV, NOV, AF, AO.
Exceeding Interim Limits.	Results in known environmental or POTW damage - SNC.	AF, AO, or LIT.
Reported Slug Load.	First or second offense, no known damage.	SV, NOV or AO, and Reevaluate Slug Plan
Reported Slug Load.	Any offense with known interference, pass through or damage - SNC.	AF, AO or LIT- Revise Slug Plan-implement changes.
Reported Slug Load.	Three or more offenses with or without damage - SNC.	AF, AO or LIT – Revise Slug Plan-implement changes
Discharge without permit or approval.	One time, no known damage.	SV, NOV, AO, AF.
Discharge without permit or approval.	One time, results in damage – SNC.	AF, AO, LIT, sewer disconnect.
Discharge without permit or approval.	Continuing violation with known damage – SNC.	LIT, sewer disconnect.

D. Noncompliance detected through inspections or field investigations

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Range of Response</u>
Minor violation of analytical procedures.	Infrequent or isolated.	VTN, SV, NOV.
Minor violation of analytical procedures.	Frequent violations	NOV, AO (immediate correction required)
Major violation of analytical procedures.	Any instance - no evidence of intent.	NOV, AF or AO.
Major violation of analytical procedures.	Evidence of negligence or intent - SNC.	AF, AO or LIT.
Minor violation of permit condition.	No evidence of negligence or intent.	VTN, SV, NOV, immediate correction required.
Minor violation of permit condition.	Evidence of negligence or intent - SNC.	AF, AO or LIT.
Major violation of permit condition.	No evidence of negligence or intent - SNC.	AF, AO, or LIT, sewer disconnect.
Major violation of permit condition.	Evidence of negligence or intent - SNC.	AF, AO, or LIT, sewer disconnect.

V. TIME FRAMES FOR RESPONSES

The Director or Pretreatment Coordinator is responsible for reviewing analytical data and information gathered from Self Monitoring Reports, District sampling reports, written notification of accidental discharges, and other sources. The Director or Pretreatment Coordinator makes compliance and enforcement decisions based on this information. This section outlines the time frames within which the Director or Pretreatment Coordinator shall identify and document these violations, and then initiate appropriate enforcement responses.

- A. All violations will be identified and documented within (7) days of receiving compliance information.
- B. Initial enforcement responses involving contact with IU and requesting information on corrective or preventative actions(s) will occur within (30) days of violation detection.
- C. Follow up actions for continuing or recurring violations will be taken within (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for SNC will be addressed with an enforceable order within (30) days of the identification of SNC.

VI. ADMINISTRATIVE FINE SCHEDULE

The AF schedule is established to provide a consistent basis for assessing monetary penalties against an IU when such actions are specified in the ERG. An AF provides a cohesive link between the lesser enforcement responses and the most severe enforcement proceedings.

A. Non-Significant Violations:

The ERG describes four distinct violation criteria that will utilize an AF for recurring non-significant violations. These criteria are: infrequent or isolated TRC exceedences of final limits; exceeding categorical or local interim limits with no known damages; discharging without a permit or approval from the District; and major violations of analytical procedures when no evidence of intent exists. All other violations that require AF are SNC violations.

Isolated or Infrequent Violations – Follow Range of Responses-Typically No Fines

Frequent Violations: Typically Begins on Fourth Occurrence in 12-Month Rolling Period (see discussion in Section II(H)).

1st repeat	\$ 50.00 to \$ 100.00 (per day)
2nd repeat	\$ 100.00 to \$200.00 (per day)
3rd repeat	\$ 250.00 to \$ 500.00 (per day) + Show Cause Hearing

B. Significant Noncompliance (See Part III C for definition of SNC):

1. With no known harm to the Environment or POTW--\$250.00 to \$500.00 /violation/day plus costs.
2. With known harm to the Environment or POTW--\$500.00 to \$2500.00 /violation/day plus costs.

Note: A recurring SNC violation shall be subject to a more severe penalty than a one time occurrence.